

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose GOMEZ-Garduno,

Defendant.

Mag. Case No.

**'08 MJ 8473**

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1326  
Attempted Entry After Deportation

The undersigned complainant being duly sworn states:

On or about May 25, 2008, within the Southern District of California, defendant Jose GOMEZ-Garduno, an alien, knowingly and intentionally attempted to enter the United States of America with the purpose, i.e. conscious desire, to enter the United States without the express consent of the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, after having been previously excluded, deported or removed from the United States to Mexico, and not having obtained said express consent to reapply for admission thereto; and committed an overt act, to wit, crossing the border from Mexico into the United States, that was a substantial step towards committing the offense, all in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

*[Signature]*  
Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 27th DAY OF MAY 2008.

*[Signature]*  
PETER C. LEWIS  
U.S. MAGISTRATE JUDGE

I, Senior Border Patrol Agent Mikaski declare under penalty of Perjury, the following is true and correct:

## PROBABLE CAUSE STATEMENT

The complainant states this complaint is based upon the investigative reports by Border Patrol Agent A. Parga, that the Defendant, Jose GOMEZ-Garduno, a citizen of Mexico was found and arrested on or about May 25, 2008, approximately one half (1/2) mile west of the Calexico west Port of Entry in Calexico, California.

At approximately 4:45 a.m. the Calexico Border Patrol Station's Remote Video Surveillance System (RVSS) Operator observed three individuals make an illegal entry into the United States by climbing over the International Boundary fence with Mexico. The RVSS Operator notified Agent Delarosa of the illegal entry. With the assistance of the RVSS operator Agent Delarosa located the three illegal entrants attempting to hide under a trailer. As Agent Delarosa approached the illegal entrants, including one individual later identified as Jose GOMEZ-Garduno, Agent Delarosa identified himself and questioned the illegal entrants. It was determined they are all citizens of Mexico illegally in the United States. GOMEZ and the two other illegal entrants were arrested and transported to the Calexico California Border Patrol Station.

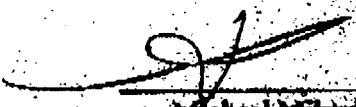
At the station, record checks of GOMEZ revealed he has previously been order removed from the United States on July 28, 2006. A further record check of GOMEZ revealed he has an extensive criminal history.

Agent Parga witnessed Agent M. Hernandez read GOMEZ his rights per 8(a)(1). GOMEZ stated that he understood his rights and was willing to speak with agents without the presence of an attorney.


GOMEZ stated he has been previously deported from the United States and has no immigration documents to be legally in the United States. GOMEZ stated he did not request permission to re-enter the United States. GOMEZ stated he made an illegal entry into the United States by climbing over the border fence. GOMEZ stated he did not present himself at a designated port of entry prior to entering the United States.

There is no evidence that the defendant received permission from the Attorney General of the United States or the Secretary of the Department of Homeland Security to re-enter the United States.

Executed on May 26, 2008, at 8:00 AM.

  
Michael Mikaski  
Senior Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find Probable Cause to believe that the defendant named in this probable cause statement committed the offense on May 25, 2008 in violation of Title 8, United States Code, 1326

  
Honorable Jan M. Adler  
United States Magistrate Judge

5/26/08 @ 8:00 AM  
Date/Time